

House File 446 - Introduced

HOUSE FILE 446

BY DAWSON

A BILL FOR

1 An Act relating to a complaint alleging the commission of a
2 delinquent act that would constitute a felony if committed
3 by an adult.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.28, subsection 3, paragraph e, Code
2 2013, is amended to read as follows:

3 e. Interview such persons as are necessary to determine
4 whether the filing of a petition would be in the best interests
5 of the child and the community ~~as provided in section 232.35,~~
6 ~~subsections 2 and 3~~ and whether the complaint alleges a
7 delinquent act that would constitute a felony if committed by
8 an adult.

9 Sec. 2. Section 232.28, subsections 6 through 9, Code 2013,
10 are amended to read as follows:

11 6. The Except as provided in subsection 9, the intake
12 officer, after consultation with the county attorney when
13 necessary, shall determine whether the complaint is legally
14 sufficient for the filing of a petition. A complaint shall be
15 deemed legally sufficient for the filing of a petition if the
16 facts as alleged are sufficient to establish the jurisdiction
17 of the court and probable cause to believe that the child has
18 committed a delinquent act. If the intake officer determines
19 that the complaint is legally sufficient to support the
20 filing of a petition, the officer shall determine whether the
21 interests of the child and the public will best be served by
22 the dismissal of the complaint, the informal adjustment of the
23 complaint, or the filing of a petition.

24 7. ~~If~~ Except as provided in subsection 9, if the intake
25 officer determines that the complaint is not legally sufficient
26 for the filing of a petition or that further proceedings are
27 not in the best interests of the child or the public, the
28 intake officer shall dismiss the complaint.

29 8. ~~If~~ Except as provided in subsection 9, if the intake
30 officer determines that the complaint is legally sufficient
31 for the filing of a petition and that an informal adjustment
32 of the complaint is in the best interests of the child and the
33 community, the officer may make an informal adjustment of the
34 complaint in accordance with section 232.29.

35 9. a. If the intake officer determines that the complaint

1 is legally sufficient for the filing of a petition and that the
2 filing of a petition is in the best interests of the child and
3 the public, the officer shall request the county attorney to
4 file a petition in accordance with section 232.35.

5 b. If the complaint alleges a delinquent act that would
6 constitute a felony if committed by an adult, the intake
7 officer shall request the county attorney to file a petition in
8 accordance with section 232.35.

9 Sec. 3. Section 232.35, subsections 2 and 3, Code 2013, are
10 amended to read as follows:

11 2. If the intake officer determines that a complaint is
12 legally sufficient for the filing of a petition alleging that
13 a child has committed a delinquent act and that the filing of
14 a petition would be in the best interests of the child and the
15 community, or the complaint alleges a delinquent act that would
16 constitute a felony if committed by an adult, the officer shall
17 submit a written request for the filing of a petition to the
18 county attorney. The county attorney may grant or deny the
19 request of the intake officer for the filing of a petition. A
20 determination by the county attorney that a petition should not
21 be filed shall be final.

22 3. If the intake officer determines that a complaint is
23 not legally sufficient for the filing of a petition or that
24 the filing of a petition would not be in the best interests of
25 the child and the community, and the complaint does not allege
26 a delinquent act that would constitute a felony if committed
27 by an adult, the officer shall notify the complainant of the
28 officer's determination and the reasons for such determination,
29 and shall advise the complainant that the complainant may
30 submit the complaint to the county attorney for review. Upon
31 receiving a request for review, the county attorney shall
32 consider the facts presented by the complainant, consult
33 with the intake officer and make the final determination as
34 to whether a petition should be filed. In the absence of a
35 request by the complainant for a review of the intake officer's

1 determination that a petition should not be filed, the
2 officer's determination shall be final, and the intake officer
3 shall inform the county attorney of this decision concerning
4 complaints involving allegations of acts which, if committed
5 by an adult, would constitute an aggravated misdemeanor ~~or a~~
6 felony.

7 EXPLANATION

8 This bill relates to a complaint alleging the commission of
9 a delinquent act that would constitute a felony if committed
10 by an adult.

11 Under the bill, if a complaint is filed alleging a juvenile
12 committed a delinquent act that would constitute a felony if
13 committed by an adult, the intake officer must request the
14 county attorney to file a petition in accordance with Code
15 section 232.35. The county attorney may grant or deny the
16 request of the intake officer for the filing of a petition.

17 Under current law, if the intake officer determines that a
18 complaint is legally sufficient for the filing of a petition
19 alleging that a child has committed a delinquent act and that
20 the filing of a petition would be in the best interests of the
21 child and the community, regardless of the classification of
22 the offense, the intake officer is required to request the
23 county attorney to file a petition in accordance with Code
24 section 232.35.

25 The capability of the intake officer remains under the bill
26 to determine whether a complaint alleging a juvenile committed
27 a delinquent act that would constitute a misdemeanor is not
28 legally sufficient for the filing of a petition or that the
29 filing of a petition would not be in the best interests of the
30 child and the community.